

REMARKS

The Application presently includes claims 1-41. Claims 4 and 8 were objected to. Claims 1-3, 5, 9-30, and 34-41 were rejected under 35 U.S.C. §102. Claims 6, 7, and 31-33 were rejected under 35 U.S.C. §103. By this Amendment, claims 1 and 34 have been amended. No new matter has been added. Applicant respectfully traverses the rejections, and requests that the Examiner withdraw the objections and rejections and pass the application to allowance.

Rejections under 35 U.S.C. §102:

The Examiner rejected claims 1-3, 5, 9-30, and 34-41 as lacking novelty over U.S. Patent No. 5,953,170 issued to Glancy ("Glancy"). In the Office Action, the Examiner asserts that Glancy discloses "a first indicia portion 3..." and "a second indicia portion 3..." However, Applicant respectfully submits that Glancy does not disclose, teach, or suggest two separate indicia portions. In fact, the single reference numeral "3" in Fig. 3 is indicative of a single indicia portion.

Applicant's claims 1 and 34 (the only two independent claims presently in the application) have been amended to clarify that the two indicia portions are separate and distinct from one another. Specifically, the clarifying limitation "and wherein said second indicia portion is separate and distinct from said first indicia portion," has been added. The inclusion of two indicia portions in Applicant's claims is not a trivial matter, but rather, is structurally related to the other elements of the claim. For example, the claims recite that each of the two viewing areas are visually aligned with each of the indicia portions, respectively. This is necessary, as the viewing areas must each reveal the indicia portions one at a time as the container is emptied.

The Examiner appears to have identified two viewing areas disclosed by Glancy, shown in Fig. 3 as reference numerals 4 and 5. However, these areas are shown for viewing only a single indicia portion 3. In fact, it appears that the only reason Glancy discloses a second viewing window is that Glancy requires that the viewing windows "decode" an optically encoded

indicia image. In a specific embodiment disclosed by Glancy, the decoding is done “stereoscopically,” and thus the combination of the two windows enables a decoded image to be viewed. This appears to be the only reason that the second window is shown in Glancy, and the presence of this second window in no way suggests that a second indicia portion is present. Note
5 that Applicant’s invention does not require that a decoding window be used in order to view the indicia images.

Thus, for at least the above reasons, Glancy fails to disclose, teach, or suggest the invention as claimed in claims 1 or 34, and thus in each of the dependent claims thereof. Applicant respectfully requests that the rejections be withdrawn.

10 Furthermore, with respect to claims 17-33, 40, and 41, the Examiner stated that “patentable novelty cannot be principally predicated on mere printed matter and arrangements thereof, but must reside basically in physical structure. See *In re Montgomery*, 102 USPQ 248.” Applicant respectfully submits that the ruling in the cited case does not apply to Applicant’s application. Applicant’s invention, as claimed, does not merely rely on arrangement of printed
15 matter, but rather, the logical relationship claimed with respect to the two separate indicia portions is a structural aspect of the invention as claimed. These elements work in cooperative relationship with the claimed viewing areas, and form structural components of the invention which are far beyond the scope of the ruling in *Montgomery*. Claims 17-33, 40, and 41, are thus further submitted to be allowable for these reasons. However, Applicant reminds the Examiner
20 that claims 17-33, 40, and 41 are allowable for the reasons stated above, regardless of Applicant’s further arguments.

With respect to claims 36-39, Applicant disagrees that the limitations in the claims are merely a statement of intended use. Applicant points out that the substance is recited in the claims as a claimed element, and thus, is a structural aspect of the invention. Glancy does not
25 disclose the combination of elements which operate together to form the invention as claimed by Applicant.

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Rejections under 35 U.S.C. §103:

The Examiner rejected claims 6 and 7 as obvious over Glancy in view of Swenson, and claims 31-33 as obvious over Glancy in view of Taub. For at least the reasons discussed above with respect to the independent claims 1 and 34, and each dependent claim thereof, Applicant submits that Glancy fails to render unpatentable the independent claims, and thus, the combination of references cited also fails to render these claims unpatentable. Applicant respectfully requests that the rejections be withdrawn, and the application passed to issue.

Claim Objections and Allowable Subject Matter:

Applicant thanks the Examiner for the indication of allowable subject matter in claims 4 and 8. In view of the above, Applicant believes it is unnecessary to rewrite the claims in independent form in the expectation that the Examiner will withdraw the previous rejections of the base claims.

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Conclusion

In view of the above Amendments and Remarks, Applicant submits that the present application is in condition for allowance, and seeks early indication of the same. If the Examiner requires further information with respect to this application, the Examiner is invited to contact Applicant's attorney at (847) 537-3537 for a telephonic interview.

Respectfully submitted,

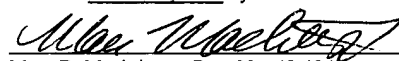
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